

ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING / PUBLIC HEARING
MINUTES
May 2, 2007

EXECUTIVE SESSION
6:30 p.m. Room 213 Town Hall

Commission Members Present: Peter Hillman, Reese Hutchison, Ellen Kirby, Pete Kenyon and Craig Flaherty.

Staff present: Jeremy Ginsberg, Richard Jacobson

Town Counsel: John Wayne Fox, John Louizos

Mr. Hutchison made a motion to go into Executive Session with Counsel and staff to discuss pending litigation. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hutchison made a motion to close the Executive Session at 7:30. Mr. Flaherty seconded the motion and it passed unanimously.

REGULAR MEETING / PUBLIC HEARING
Room 206 7:30 p.m. Town Hall

Chairman Hillman called the meeting to order at 7:40 P.M. Commission Members Present: Peter Hillman, Susan Cameron, Reese Hutchison, Ellen Kirby, Pete Kenyon and Craig Flaherty.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

EPC-06-2007 Joseph and Maria Teresa Criscuolo, 95 Hoyt Street, proposing driveway construction within a regulated area.

Mr. Hillman said he watched the public hearing DVD from the April 11, 2007 public hearing. He said there was obvious neighborhood pride in the preserved wetlands and he said he has sympathy for Mr. and Mrs. Bussey. He said there is an easement in place for the driveway. The Commission's independent engineer and environmental consultants reviewed the evidence and their conclusions favor the applicant. He said he believes there will be a significant impact but the mitigation measures will meet or exceed the current function of the wetlands. He said he does not see a feasible and prudent alternative and would like to see as little impervious surface as possible. He would like to see a maintenance plan for the driveway.

Mr. Hutchison said he agreed with Mr. Hillman and the independent engineer's testimony particularly with regard to safety. He said the burden placed on the applicant with respect to safety issues was upheld.

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Mr. Flaherty said he concurred with the previous statements. He said he concluded that the proposal was reasonable. He said he agreed with the evidence that heating the driveway will not work and there are no feasible and prudent alternatives. He said the functions of the wetlands will be maintained. He said the driveway should be a minimum of ten feet wide and have a minimum radius of 45 degrees.

Mr. Lewis said he concurred with the previous statements and was persuaded by the applicant's experts' testimony and the independent expert testimony.

Ms. Kirby said Tom Ryder's testimony convinced her. She said she was not convinced initially that the wetland impact was necessary. She said she accepted his explanation of the wetland mitigation and better functioning wetland.

Mr. Hutchison said the exit on Miller road to Hoyt Street has a clear difference in pitch and is safer.

The Commission requested staff to draft a resolution of approval.

Mr. Hillman read the next agenda item.

EPC-24-2007, Hoyt Street Partners, LLC, 285, 289 & 293 Hoyt Street, proposing condominium construction and related site development within an upland review area.

Attorney Bruce Hill represented the applicant.

Mr. Hillman said a public hearing was in the public interest. He asked if the Commission wished to retain an independent engineer. It was the consensus of the Commission to retain Joe Canas. The Commission scheduled a public hearing for June 6, 2007.

Mr. Hillman said there is a significant potential for wetland enhancement on the property.

Mr. Hillman read the next agenda item.

EPC-26-2007 James and Karen Reilly, 41 Nearwater Lane, proposing demolition of a house within the upland review area and grading and landscaping associated with new house construction

Mr. Reilly represented himself.

Mr. Hillman said it has been the policy of the Commission to have public hearings on new applications. The Commission scheduled the application for a public hearing on June 6, 2007.

Mr. Hillman read the next agenda item.

EPC-28-2007 John and Mary Keane, 22 Hamilton Lane, proposing demolition of a house and construction of new residence within the upland review area.

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Toan Nguyen, P.E. represented the applicant.

Mr. Hillman said this was similar to the previous application and that the Commission has a policy of holding hearings on new homes. The Commission scheduled the application for public hearing on June 6, 2007. Mrs. Keane submitted letters of support from neighbors for the record.

Mr. Hillman read the next agenda item.

EPC-29-2007 Woodway Country Club, 540 Hoyt Street, proposing golf course improvements within an upland review area.

Mr. Flaherty recused himself on this application.

Brian McMahon, P.E. represented the applicant.

Mr. Hillman said the Commission would schedule the application for public hearing because of concerns for potential significant impacts from the water quality basin and flooding. He said there are opportunities for additional mitigation. The Commission scheduled the public hearing for June 6, 2007.

Mr. Hillman read the next agenda item.

EPC-91-2005, J.J. Boca Land Development, 473 Hollow Tree Ridge Road, requesting a permit amendment to change patio area and provide additional plantings.

John Cappiello represented the applicant. He said the house is almost finished.

Mr. Hillman asked if they were proposing more plantings for more patio. Mr. Cappiello said they were adding 15 additional shrubs.

Mr. Hutchison asked if there was drainage in the patio. Mr. Cappiello said it is directed into the leader drains and into the galleries. The gallery overflow was revised to discharge into a new planting area.

Mr. Hutchison asked if the decking was closer to the wetland than previously proposed. Mr. Cappiello said no.

Mr. Flaherty asked for more information on handling the impervious surfaces. Mr. Cappiello said he would provide additional information for the May 16 meeting.

Mr. Hillman read the next agenda item.

EPC-11-2006, Charles and Brook McIlvane 57 Nearwater Lane, requesting an amendment to expand patio area.

This item was continued until May 16, 2007.

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Mr. Hillman read the next agenda item.

EPC-25-2007 Sanford and Nicole Ewing, 110 Stephen Mather Road, proposing drainage pipe installation and landscaping within a regulated area.

John Sweeny, DLTC Landscaping represented the applicant. He said in 1994 the applicant received an approval for a drainage ditch. He said they are proposing to clear trees but they do not want to clear cut the area. He said they will provide understory.

Mr. Hillman said the Commission would require additional information including tagging the trees to be cut and a functional analysis of the wetlands to be lost. The Commission continued this application to May 16.

Mr. Hillman read the next agenda item.

EPC-27-2007 Mark Raskopf, 60 Andrews Drive, proposing construction of retaining walls within the upland review area.

Mr. Raskopf represented himself.

Mr. Flaherty asked if there were trees to be removed with this revised plan. Mr. Raskopf said no. Mr. Flaherty said it was a good effort to focus on the area most in need of stabilization.

Mr. Hillman made a motion to approve the application. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item.

Darien High School baseball field – Update on Erosion and Sediment Controls from Joe Canas.

Mr. Hillman asked Mr. Canas to address the Darien High School Erosion and sediment controls. He said he received numerous phone calls during the rain of the previous Friday.

Mr. Canas said he had made four inspections of the Erosion and Sediment Controls since the last storm. He said they have provided a sediment trap on the right field side.

Mr. Flaherty said they could place the outlet for the silt bag in a better location. Mr. Canas said they directed the silt bag to the stabilized basin. Mr. Flaherty said they may need to provide a flocculent between the rows of silt fence. Mr. Canas said they will consider that.

Mr. Hillman asked if the plan called for a sump pump to be used. Mr. Canas said no. He said the contractor was attempting to provide more capacity in the trap in preparation for the rains to come. Mr. Flaherty said dewatering may have been appropriate but the P.E. should have approved it.

Mr. Hillman asked for a letter explaining how the pumping happened and requested a letter accounting for the pumping to be discussed at the May 16 meeting.

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Cheryl Russell of 18 Holly Lane addressed the Commission regarding the flooding of April 14 and April 27. She provided photos of erosion from properties in Town. Mr. Hillman said the photos would be made a part of the public record of this meeting. Mrs. Russell said the sump pump in the dirt field caused Holly Lane to be flooded in the morning of the storm.

Lane Russell addressed the Commission. He said there was sand in the watercourse from WeeBurn Country Club. Mr. Jacobson said the source of the sand was still under investigation.

Jane Wolcott of Linda Lane said there was white sand left on her property after the storm.

Bob Jordan of 301 Middlesex Road said the town storm sewers do not work in moderate rain. Mr. Hillman said Mr. Steeger would be notified.

The following items were continued to the May 16 meeting.

EPC-30-2007 John and Kristine Kaufman, 30 St. Nicholas Road

EPC-31-2007 Charles L. Stone, 68 Salem Straits, proposing installation of underground utilities within an upland review area.

EPC-2-2006 Richard Windels on behalf of Laurie Stuek, 22 Driftway Lane, requesting permit amendment to allow maintenance dredging of pond.

Rodger Smith, 19 Butlers Island Road, requesting modification of conservation easement to allow lights and sprinkler head.

EPC-35 2004, Kristin Nemec, 60 Inwood Road, requesting bond release.

EPC-70-2004, Paul and Elina Bastone, 129 Raymond Street, requesting bond release.

Public Hearings

Mr. Hillman read the first public hearing item.

EPC-12-2007 Thomas and Lynne Mercein, 29 Sunswyck Road, proposing construction of a pool within an upland review area. (continued from 4/4/07)

Don Ferlow, Stearns and Wheler represented the applicant. He provided an overview of the pool sketches and the alternatives. He described the impacts of the free form pool with less deck. He said the impact would be 1800 square feet in the upland review area. He said the temporary disturbance would be 3000 square feet in the upland review area and 400 square feet in the wetland lawn.

Mr. Flaherty asked if the proposed code complying septic had been approved by the Health Department. Todd Ritchie, P.E said yes.

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Mr. Flaherty asked what the habitat value of the area is under the existing versus proposed conditions. Mr. Ferlow said there is very little planting in the existing area. There is one large Beech Tree to be removed.

Mr. Hillman asked how close the pool was to the wetland. Mr. Ferlow said 35 feet. He said the free form pool would have 300 square feet less of impact than the original proposal.

Mr. Hillman made a motion to close the public hearing. Mr. Flaherty seconded the motion and it passed unanimously.

The Commission proceeded to deliberate on the application.

Mr. Hillman said he was inclined to approve the application. Mr. Flaherty said the wetland in the lawn is of low value. He said there is no other alternative for access to the pool site.

The Commission requested staff to draft a resolution to approve the application including stipulations for an as-built and notice of transfer to the new owner.

Mr. Hillman read the next public hearing item.

EPC-13-2007 Kai Young, GPG Builders, 19 Greenwood Avenue, proposing to demolish an existing house and construct new dwelling within an upland review area (continued from 4/4/07).

Mr. Lewis was recused for this application.

Don Ferlow, Stearns & Wheler represented the applicant.

Mr. Hillman said they had addressed the Commission's concerns regarding impervious surfaces and stormwater management. Mr. Ferlow said Todd Ritchie prepared the runoff calculations. He said reduction in peak runoff is proposed. He said they added a rain garden in the front of the house and a gravel trench in the front of the house. He said the Cul-tech units were spread out as requested. They provided a stone wall at the floodplain line and expanded the restoration area.

Mr. Flaherty said the plan was an improvement over the original plan by spreading out the detention units and the improvements to the buffer area.

Mr. Hillman asked if there were any additional members of the public who wished to comment. Seeing none he made a motion to close the public hearing. Mr. Hutchison seconded the motion and passed unanimously.

The Commission asked staff to draft a resolution to approve.

Mr. Hillman read the next public hearing item.

EPC-16-2007 Patrick Goulding and Anna Zaranski, 5 Holly Lane, proposing to demolish an existing house and construct new dwelling within an upland review area.

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Kate Throckmorton, Landscape Architect, represented the applicant. She said the proposal involves a demolition and re-build of the house. She said the footings of the house are not up to code to allow a second story. She said the house will be moved farther from the wetland and the driveway will be removed from the upland review area. The new driveway will be gravel instead of pavement. The patio will be a pervious material and the lawn and driveway area will be re-vegetated. She said the overall coverage on the site will be reduced and the peak flows will be reduced.

Mr. Hillman asked if anyone from the public wished to speak. Seeing no one, he made a motion to close the public hearing. Mr. Hutchison seconded the motion and it passed unanimously.

The Commission requested staff write a resolution approving the application.

Mr. Hillman read the next public hearing item.

EPC-21-2007 Katherine Kidder, 43 Blueberry Lane, proposing wetland restoration plantings to correct a violation.

Attorney Al Tibbetts and Kate Throckmorton, Environmental Land Solutions, represented the applicant. Mr. Tibbetts provided the Commission with a timeline of the violation and current application. He also provided a copy of the real estate listing at the time of his client's purchase of the property and the deeds of the property. He said the real estate brochure showed the back yard of the property as lawn before Mrs. Kidder purchased it.

Mr. Hillman asked Mrs. Kidder when she purchased the house. Ms. Kidder said 2003. Mr. Hillman asked who represented her. Mrs. Kidder said Paul Johnson. Mr. Hillman asked if there was a mention of wetlands. Mrs. Kidder said no. Mr. Hillman asked if the real estate agent mentioned wetlands. Mrs. Kidder said no.

Mr. Tibbetts said his client had no awareness of the violation when she bought the property.

Ms. Throckmorton said they have shown additional plantings and a low stone wall to demarcate the wetland. They will remove invasive species and replant with native species.

The Commission continued the public hearing to May 16. They requested copies of the minutes of the meeting of 2001 approving the pool and requested the timeline be sent to the Town Attorney.

Mr. Lewis made a motion to adjourn. Ms. Kirby seconded the motion and it passed unanimously. The meeting adjourned at 11:20 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer